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APR 18 2019	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 MARK PREMO,

15 Plaintiff,

16 vs.

17 OPTIMUM CX, LLC, an Arizona limited
18 liability company fka FUSION CONTACT
19 CENTERS, LLC; DOES 1 through 10,
20 inclusive,

21 Defendants.

CASE NO. 3:19-cv-00121-MMD-CBC

**STIPULATED CONFIDENTIALITY AND
PROTECTIVE ORDER**

22 In order to protect the confidentiality of confidential information obtained by the parties in
23 connection with this case, the parties hereby agree as follows:

24 1. Any party or non-party may designate as "Confidential" (by stamping the relevant
25 page or other otherwise set forth herein) any document or response to discovery which that party
26 or non-party considers in good faith to contain information involving trade secrets, confidential
27 business or financial information, or private information, including protected health information
28 ("PHI") as defined by the Health Insurance Portability and Accountability Act ("HIPAA"), that is
subject to protection under the Federal Rules of Civil Procedure and/or other federal and Nevada
laws ("Confidential Information"). Where a document or response consists of more than one
page, the first page and each page on which Confidential Information appears shall be so
designated.

1 2. With regard to "PHI" as defined in HIPAA and its regulations (the definitions for which
2 are found in 45 C.F.R. 160.103), the parties agree that PHI that is not relevant to the legal claims being
3 pursued by Plaintiffs may be redacted from any production of documents, including electronically
4 stored information ("ESI") subject to any discovery orders on record in this action. To the extent that
5 there is a dispute regarding whether any such PHI is relevant to Plaintiffs' claims, the Parties agree to
6 meet and confer regarding the relevance of such PHI. If the Parties are unable to agree regarding the
7 relevance of such PHI, the Parties shall follow the procedures described in Paragraph 9, below.

8 3. A party or non-party may designate information disclosed during a deposition or in
9 response to written discovery as "Confidential" by so indicating in said response or on the record
10 at the deposition and requesting the preparation of a separate transcript of such material.
11 Additionally a party or non-party may designate in writing, within twenty (20) days after receipt
12 of said responses or of the deposition transcript for which the designation is proposed, that specific
13 pages of the transcript and/or specific responses be treated as "Confidential" Information. Any
14 other party may object to such proposal, in writing or on the record. Upon such objection, the
15 parties shall follow the procedures described in Paragraph 8 below. After any designation made
16 according to the procedure set forth in this paragraph, the designated documents or information
17 shall be treated according to the designation until the matter is resolved according to the
18 procedures described in Paragraph 8 below, and counsel for all parties shall be responsible for
19 making all previously unmarked copies of the designated material in their possession or control
20 with the specified designation.

21 4. All information produced or exchanged in the course of this case, including
22 deposition testimony or video (other than information that is publicly available), shall be used by
23 the party or parties to whom the information is produced solely for the purpose of this case.

24 5. Except with the prior written consent of other parties, or upon prior order of this
25 Court obtained upon notice to opposing counsel, Confidential Information shall not be disclosed to
26 any person other than:

- 27 a. counsel for the respective parties to this litigation, including in-house
28 counsel and co-counsel retained for this litigation;

- b. employees of such counsel;
- c. individual defendants, class representatives, any officer or employee of a party, to the extent deemed necessary by Counsel for the prosecution or defense of this litigation;
- d. consultants or expert witnesses retained for the prosecution or defense of this litigation, provided that each such person shall execute a copy of the Certification annexed to this Order as Exhibit "A" (which shall be retained by counsel to the party so disclosing the Confidential Information and made available for inspection by opposing counsel during the pendency or after the termination of the action only upon good cause shown and upon order of the Court) before being shown or given any Confidential Information;
- e. any authors or recipients of the Confidential Information;
- f. the Court, Court personnel, and court reporters; and
- g. witnesses (other than persons described in Paragraph 5(e)). A witness shall sign the Certification before being shown a confidential document. Confidential Information may be disclosed to a witness who will not sign the Certification only in a deposition at which the party who designated the Confidential Information is represented or has been given notice that Confidential Information shall be designated "Confidential" pursuant to Paragraph 2 above. Witnesses shown Confidential Information shall not be allowed to retain copies.

6. Any persons receiving Confidential Information shall not reveal or discuss such information to or with any person who is not entitled to receive such information, except as set forth herein.

7. Unless otherwise permitted by statute, rule or prior court order, papers filed with the court under seal shall be accompanied by a contemporaneous motion for leave to file those documents under seal, and shall be filed consistent with the court's electronic filing procedures in accordance with Local Rule 10-5(b). Notwithstanding any agreement among the parties, the party

1 seeking to file a paper under seal bears the burden of overcoming the presumption in favor of
2 public access to papers filed in court. *Kamakana v. City and County of Honolulu*, 447 F.2d 1172
3 (9th Cir. 2006).

4 8. A party may designate as "Confidential" documents or discovery materials
5 produced by a non-party by providing written notice to all parties of the relevant document
6 numbers or other identification within thirty (30) days after receiving such documents or discovery
7 materials. Any party or non-party may voluntarily disclose to others without restriction any
8 information designated by that party or non-party as confidential, although a document may lose
9 its confidential status if it is made public.

10 9. If a party contends that any material is not entitled to confidential treatment, such
11 party may at any time give written notice to the party or non-party who designated the material.
12 The party or non-party who designated the material shall have twenty-five (25) days from the
13 receipt of such written notice to apply to the Court for an order designating the material as
14 confidential. The party or non-party seeking the order has the burden of establishing that the
15 document is entitled to protection.

16 10. Notwithstanding any challenge to the designation of material as Confidential
17 Information, all documents shall be treated as such and shall be subject to the provisions hereof
18 unless and until one of the following occurs:

- 19 a. the party or non-party who claims that the material is Confidential
20 Information withdraws such designation in writing; or
21 b. the party or non-party who claims that the material is Confidential
22 Information fails to apply to the Court for an order designating the material
23 confidential within the time period specified above after receipt of a written
24 challenge to such designation; or
25 c. the Court rules the material is not confidential.

26 11. All provisions of this Order restricting the communication or use of Confidential
27 Information shall continue to be binding after the conclusion of this action, unless otherwise
28 agreed or ordered. Upon conclusion of the litigation, a party in the possession of Confidential

1 Information, other than that which is contained in pleadings, correspondence, and deposition
2 transcripts, shall either (a) return such documents no later than thirty (30) days after conclusion of
3 this action to counsel for the party or non-party who provided such information, or (b) destroy
4 such documents within the time period upon consent of the party who provided the information
5 and certify in writing within thirty (30) days that the documents have been destroyed.

6 12. The terms of this Order do not preclude, limit, restrict, or otherwise apply to the use
7 of documents at trial.

8 13. Nothing herein shall be deemed to waive any applicable privilege or work product
9 protection, or to affect the ability of a party to seek relief for an inadvertent disclosure of material
10 protected by privilege or work product protection.

11 14. Any witness or other person, firm or entity from which discovery is sought may be
12 informed of and may obtain the protection of this Order by written advice to the parties' respective
13 counsel or by oral advice at the time of any deposition or similar proceeding.

14 DATED this 16th day of April, 2019.

DATED this 16th day of April, 2019.

15 MOORE LAW GROUP, P.C.

LEWIS BRISBOIS BISGAARD & SMITH LLP

16 /s/ John D. Moore
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*Attorneys for Defendant Spring Valley Health
Care, LLC d/b/a Spanish Hills Wellness Suites*

21 **ORDER**

22 IT IS SO ORDERED:

23 
24 UNITED STATES MAGISTRATE JUDGE

25
26 DATED: 4/18/2019
27
28

EXHIBIT A

CERTIFICATION RE CONFIDENTIAL DISCOVERY MATERIALS

I hereby acknowledge that I, _____[NAME],
_____[POSITION AND EMPLOYER], am
about to receive Confidential Information supplied in connection with United States District Court
Case No. CASE NO. 3:19-cv-00121-MMD-CBC. I certify that I understand that the Confidential
Information is provided to me subject to the terms and restrictions of the Stipulated
Confidentiality and Protective Order filed in this Proceeding. I have been given a copy of the
Stipulated Confidentiality and Protective Order; I have read it, and I agree to be bound by its
terms.

I understand that the Confidential Information, as defined in the Stipulated Confidentiality
and Protective Order, including any notes or other records that may be made regarding any such
materials, shall not be Disclosed to anyone except as expressly permitted by the Stipulated
Confidentiality and Protective Order. I will not copy or use, except solely for the purposes of this
Proceeding, any Confidential Information obtained pursuant to this Stipulated Confidentiality and
Protective Order, except as provided therein or otherwise ordered by the Court in the Proceeding.

I further understand that I am to retain all copies of all Confidential Information provided
to me in the Proceeding in a secure manner, and that all copies of such materials are to remain in
my personal custody until termination of my participation in this Proceeding, whereupon the
copies of such materials will be returned to counsel who provided me with such materials.

I declare under penalty of perjury, under the laws of the United States of America and
State of Nevada, that the foregoing is true and correct. Executed this ____ day of
_____, 2019.

BY: _____

Signature
Title

Address

City, State, Zip

Telephone Number